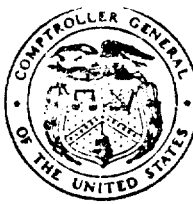


DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

27131

FILE: B-213715

DATE: December 29, 1983

MATTER OF: Ken's Trash Removal Service

DIGEST:

Protest filed with GAO more than 10 working days after receipt by protester of contracting officer's denial of its protest to the contracting agency is untimely and not for consideration.

Ken's Trash Removal Service (Ken's) protests the award under United States Army Corps of Engineers (Kansas City District) invitation for bids No. DACA41-84-B-0005 to the low bidder since that bidder failed to acknowledge in its bid the amendments issued to the solicitation.

We dismiss the protest as untimely.

Ken's protested the contracting agency's failure to reject the bid of the low bidder and to award the contract to Ken's by letter of September 19, 1983. On September 22, Ken's was telephonically advised that the contracting officer believed the failure to acknowledge the amendments constituted a waivable minor informality and was asked to withdraw its protest. By letter of September 28 to the contracting officer, Ken's declined to withdraw the protest. Subsequently, the contracting officer, by letter of October 25 (received, Ken's states, on October 25), issued his decision denying the protest. By letter of November 10, received by our Office on November 15, Ken's protested to our Office.

Our Bid Protest Procedures provide at 4 C.F.R. § 21.2(a) (1983) that in order for a protest to be considered by our Office, that protest, where the initial protest was timely filed with the contracting agency, must be filed with our Office within 10 working days after the protester had "formal notification of or actual or constructive knowledge of initial adverse agency action" on its protest filed with the agency. Because the protest of Ken's

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was received by our Office more than 10 working days after it had received the contracting officer's denial (the initial adverse agency action) of its protest, it is not for our consideration.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel